IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22130 of 2003

Between:

R. K. Bar and Restaurant, Kandi Village, National Highway No.9,
Medak District, rep. by its Proprietor &
Licencee K.Veerender, S/o.Narayana.

..... PETITIONER

AND

1. The Prohibition & Excise Superintendent, Medak District at Sanga Reddy.
2. The Prohibition & Excise Inspector, Sanga Reddy.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the respondents in demanding the licence fee as per the slab applicable to the Municipalities and further taking steps to invoke the Bank guarantee without there being any written demand or notice as illegal, void and contrary to the rules, facts and circumstances, further declare that the petitioner is liable to pay the licence fee as per the slab applicable to the places where the population does not exceed 10,000 and consequently direct the respondents to refund the excess licence fee collected from the petitioner.

Counsel for the Petitioner: MR.M.RAMALINGESWARA REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following order:

Heard both sides and at their request, the main writ petition itself is taken up for disposal.

The petitioner, which is a bar and restaurant at Kandi village, files this writ petition to declare the action of the respondents in demanding the licence fee as per the slab applicable to the Municipalities, and further taking steps to invoke the bank guarantee without there being any written demand or notice, as illegal, void and further declare that the petitioner is liable to pay the licence fee as per the slab applicable to the places where the population does not exceed 10,000.

The case of the petitioner in brief is that it has been holding licence in Form IL 24 for sale of liquor in retail, since the year 1998-99, by paying the licence fee applicable to the places where the population of the village does not exceed 10,000. However, treating the said business place as falling within and nearer to the Sangareddy Municipality, now the demand is being made by the respondents to pay the licence fee, as per the slab that is applicable to the Municipalities. In support of its case, the petitioner filed various certificates to show that its shop is situated more than 3 kilometers away from the Municipal limits of Sangareddy.

On behalf of the respondents, it is submitted that the said shop is situated hardly at a distance of 2 kilometers away from the Municipal limits of Sanga Reddy, and therefore, the petitioner has to pay the licence fee as per the slab, which is applicable to the Municipalities. In support of their case, the respondents have placed reliance on the certificate issued by the Mandal Revenue Officer, Sanga Reddy, which shows that the said shop is located at a distance of two kilometers from the periphery of Municipal limits of Sanga Reddy, and

also on a letter showing that another shop, by name, Reddy Wines, falls within the Municipal periphery of 2 kilometers, and whereas the petitioner's shop is hardly at a distance of ½ kilometer from the said Reddy Wines. In view of the same, the licence fee has to be collected from the petitioner only as per the slab, which is applicable to the Municipalities.

Having heard the learned counsel appearing for both the sides and upon a perusal of the record, it is seen that there is a dispute as to the exact distance between the petitioner's place of business and Sangareddy Municipality. The certificates relied on by both sides do not give any correct picture. In the absence of proper material, it will be difficult to decide the issue in exercise of powers under Article 226 of the Constitution of India.

However, in case the petitioner's shop falls under the municipal limits of Sangareddy, the petitioner has to pay the licence fee, which is applicable to the Municipality. In view of the same, the writ petition is disposed of directing the Executive Engineer, R and B along with the Officials of the respondents herein to measure the distance between the petitioner's shop and Sangareddy Municipality, after giving notice and opportunity to the petitioner, and basing upon the said measurement, the respondents shall accordingly levy and collect the licence fee. This exercise shall be done within one month from the date of receipt of a copy of this Order. No costs.

23-09-2004

lvl

Note: CC within three days,
b.o.
lvl

To,

1. The Prohibition & Excise Superintendent, Medak District at Sanga Reddy.
2. The Prohibition & Excise Inspector, Sanga Reddy.
3. 2CCs to Government Pleader for Prohibition and Excise, High Court of A.P., Hyderabad. (OUT)
4. 2CD copies